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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GREENACTION FOR HEALTH AND
ENVIRONMENTAL JUSTICE,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE
NAVY et al.,

Defendants.

Case No. 3:24-cv-3899-VC

**FEDERAL DEFENDANTS' REQUEST
FOR JUDICIAL NOTICE**

Federal Defendants respectfully request that the Court take judicial notice of the facts set forth below and of the documents that contain the relevant facts. These facts are not subject to a reasonable dispute because they can be accurately and readily determined from documents and information whose accuracy cannot be reasonably questioned. Defendants file this request for

judicial notice in support of their Motion to Dismiss Plaintiff's First Amended Complaint. The parties met and conferred on the request for judicial notice, and Plaintiffs do not oppose this request.

Defendants provide as exhibits to this request for judicial notice excerpts of relevant portions from the supporting sources and hyperlinks to the complete documents. Filing the entire documents would inundate the Court with thousands of pages of information when a smaller subset of pages is relevant to establish the facts below. Supporting documents from the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Administrative Record ("AR") are indicated at first reference below by the AR number. Copies of true and correct AR documents can be accessed at the following website by document number in the search bar: <https://administrative-records.navfac.navy.mil/?PN24V63WGTUM4VG4WO/>. Direct hyperlinks are to true and correct copies maintained in the California Department of Toxic Substances Control EnviroStor database. See <https://www.envirostor.dtsc.ca.gov/public/>. Exhibits that are complete true and correct copies are indicated where introduced.

The court "must take judicial notice if a party requests it and the court is supplied with the necessary information." Fed. R. Evid. 201(c). "The court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). Courts may take judicial notice of "matters of public record," *Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th Cir. 2001), including information on websites of governmental entities, *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998-99 (9th Cir. 2010).

Therefore, Defendants request that the Court take judicial notice of the following facts contained in the supporting documents and the documents themselves:

1. The Department of the Navy (“Navy”) and the United States Environmental Protection Agency (“EPA”) jointly selected the final remedial action for parcel A at Hunters Point Naval Station (“Hunters Point”) under CERCLA and documented that decision in the record of decision (“ROD”) issued in November 1995. *See* Parcel A ROD (November 16, 1995) excerpts, Ex. 1 at 2-7.¹ Exhibit 1 is a complete true and correct copy of this document.

2. In the ROD for parcel A at Hunters Point, the Navy and EPA found the remedial action selected under CERCLA is protective of human health and the environment. *See* Parcel A ROD excerpts, Ex. 1 at 5-6.

3. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel A at Hunters Point for the remedial action selected under CERCLA. *See* Parcel A ROD excerpts, Ex. 1 at 16, 31-50.

4. The Navy and EPA jointly selected the final remedial actions for parcel B at Hunters Point under CERCLA and documented that decision in the ROD issued in October 1997. *See* Final ROD, Parcel B (October 7, 1997) excerpts, Ex. 2 at 2-11, AR Doc. No. 3534, available at https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_document/s/7556136906/Parcel%20B%20Final%20ROD%5F10%2E7%2E97%2Epdf.

5. In the ROD for parcel B at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD, Parcel B excerpts, Ex. 2 at 10, 78.

¹¹ Exhibit page numbers cited are PDF page numbers.

6. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel B at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD, Parcel B excerpts, Ex. 2 at 20-21, 80-88.

7. The Navy issued a first Explanation of Significant Differences under CERCLA for the parcel B ROD at Hunters Point in October 1998. *See* Explanation of Significant Differences, Parcel B (dated August 24, 1998, signed in October 1998) excerpts, Ex. 3, AR Doc. No. 1385. Exhibit 3 is a complete true and correct copy of this document.

8. The Navy issued a second Explanation of Significant Differences under CERCLA for the parcel B ROD at Hunters Point in May 2000. *See* Final Explanation of Significant Differences and Responses to Comments, Parcel B (May 4, 2000) excerpts, Ex. 4, AR Doc. No. 408, available at

https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F4623766839%2FParcel%20B%20ROD%20ESD_5-4-2000.pdf.

9. The Navy and EPA jointly amended the final remedial actions for parcel B at Hunters Point under CERCLA and documented that decision in an Amended ROD issued in January 2009. *See* Final Amended Parcel B ROD (January 14, 2009) excerpts, Ex. 5 at 2-22, AR Doc. No. 1507, available at

https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F6790684342%2FFinal%20B%20Amended%20ROD%201-09%20Sections%201%20through15.pdf

10. In the Amended ROD for parcel B at Hunters Point, the Navy and EPA found the remedial actions selected and amended under CERCLA are protective of human health and the environment. *See* Final Amended Parcel B ROD excerpts, Ex. 5 at 18-19.

11. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel B at Hunters Point for the amended remedial actions selected under CERCLA. *See* Final Amended Parcel B ROD excerpts, Ex. 5 at 57-91.

12. The Navy and EPA jointly selected the final remedial actions for parcel G at Hunters Point under CERCLA and documented that decision in the ROD issued in February 2009. *See* Final ROD for Parcel G (February 18, 2009) excerpts, Ex. 6 at 2-11, AR Doc. No. 1536, available at

https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F2607404410%2FFinal%20Parcel%20G%20ROD.TextTablesFigures.Attachments1%2C2_02.24.09.pdf.

13. In the ROD for parcel G at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel G excerpts, Ex. 6 at 54.

14. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel G at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel G excerpts, Ex. 6 at 55-69.

15. The Navy and EPA jointly selected the final remedial actions for parcels D-1 and UC-1 at Hunters Point under CERCLA and documented that decision in the ROD issued in July 2009. *See* Final ROD for Parcels D-1 and UC-1 (July 24, 2009) excerpts, Ex. 7 at 2-11, AR Doc. No. 1731, available at

https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F7617248356%2FROD%20D-1%20and%20UC-1%20Public%20Summary-Responsiveness%20Summary.pdf

16. In the ROD for parcels D-1 and UC-1 at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcels D-1 and UC-1 excerpts, Ex. 7 at 19.

17. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcels D-1 and UC-1 at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcels D-1 and UC-1 excerpts, Ex. 7 at 20-34.²

18. The Navy and EPA jointly selected the final remedial actions for parcel UC-2 at Hunters Point under CERCLA and documented that decision in the ROD issued in December 2009. *See* Final ROD for Parcel UC-2 (December 17, 2009) excerpts, Ex. 8 at 2-8, AR Doc. No. 1747, available at

https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_document/s/7860066056/Final%5FParcel%20UC%2D2%20ROD%20121709and%20Attachments%201and2%2Epdf.

19. In the ROD for parcel UC-2 at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel UC-2 excerpts, Ex. 8 at 53.

20. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel UC-2 at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel UC-2 excerpts, Ex. 8 at 54-69.

² Only part of the comment responsiveness summary is attached due to length and file size.

21. The Navy and EPA jointly selected the final remedial action for parcel D-2 at Hunters Point under CERCLA and documented that decision in the ROD issued in August 2010. *See* Final ROD for No Further Action at Parcel D-2 (August 9, 2010) excerpts, Ex. 9 at 2-7, AR Doc. No. 2074, available at

https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/2935836613/Final%5FD%2D2ROD%5F8%2E9%2E10%2Epdf.

22. In the ROD for parcel D-2 at Hunters Point, the Navy and EPA found the remedial action selected under CERCLA is protective of human health and the environment. *See* Final ROD for No Further Action at Parcel D-2 excerpts, Ex. 9 at 9.

23. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel D-2 at Hunters Point for the remedial action selected under CERCLA. *See* Final ROD for No Further Action at Parcel D-2 excerpts Ex. 9 at 19-21.

24. The Navy and EPA jointly selected the final remedial actions for parcel C at Hunters Point under CERCLA and documented that decision in the ROD issued in September 2010. *See* Final ROD for Parcel C (September 30, 2010) excerpts, Ex. 10 at 2-14, AR Doc. No. 2115, available at

https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/7154371500/Hunters%20Point%5FParcel%20C%20Record%20of%20Decision%201of5%5F09%2E30%2E2010%2Epdf.

25. In the ROD for parcel C at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel C excerpts, Ex. 10 at 22.

26. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel C at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel C excerpts, Ex. 10 at 23-42.

27. The Navy and EPA jointly selected the final remedial actions for parcel E-2 at Hunters Point under CERCLA and documented that decision in the ROD issued in November 2012. *See* Final ROD for Parcel E-2 (November 13, 2012) excerpts, Ex. 11 at 2-10, AR Doc. No. 4620, available at

https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/2095854043/Final%5FE%2D2%5FROD%2Epdf.

28. In the ROD for parcel E-2 at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel E-2 excerpts, Ex. 11 at 58.

29. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel E-2 at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel E-2 excerpts, Ex. 11 at 60-83.³

30. The Navy and EPA jointly selected the final remedial actions for parcel E at Hunters Point under CERCLA and documented that decision in the ROD issued in December 2013. *See* Final ROD for Parcel E (December 23, 2013) excerpts, Ex. 12 at 2-13, AR Doc. No. 4983, available at

https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F9190902531%2FParcel-E_Final-ROD.pdf.

³ Only part of the comment responsiveness summary is provided due to length and file size.

31. In the ROD for parcel E at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel E excerpts, Ex. 12 at 72-73.

32. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel E at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel E excerpts, Ex. 12 at 74-91.

33. The Navy and EPA jointly selected the final remedial actions for parcel UC-3 at Hunters Point under CERCLA and documented that decision in the ROD issued in January 2014. *See* Final ROD for Parcel UC-3 (January 21, 2014) excerpts, Ex. 13 at 2-13, AR Doc. No. 5152, available at

https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_document/s/3999647378/Parcel%20UC%2D3%20Final%20ROD%5F1%2E24%2E2014%2Epdf.

34. In the ROD for parcel UC-3 at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel UC-3 excerpts, Ex. 13 at 54.

35. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel UC-3 at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel UC-3 excerpts, Ex. 13 at 55-72.

36. The Navy issued an Explanation of Significant Differences under CERCLA for the parcel C ROD at Hunters Point in October 2014. *See* Final Explanation of Significant Differences to

the Final ROD for Parcel C (October 28, 2014) excerpts, Ex. 14 at 2, 26, AR Doc. No. 5196, available at

https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F8935804605%2FParcel_C_ESD_Final%2010.29.2014.pdf.

37. The Navy issued Non-Significant Changes under CERCLA for the parcels B, D-1, G, UC-1, UC-2 RODs at Hunters Point in November 2014. *See* Non-Significant (Minor) Changes to the Selected Remedies Presented in the RODs for Parcels B, D-1, G, UC-1, And UC-2 (November 18, 2014) excerpts, Ex. 15 at 2-5, AR Doc. No. 5290. Exhibit 15 is a complete true and correct copy of this document.

38. The Navy issued an Explanation of Significant Differences under CERCLA for the parcel G ROD at Hunters Point in April 2017. *See* Final Explanation of Significant Differences to the Final ROD for Parcel G (April 18, 2017) excerpts, Ex. 16 at 1-9, 24, AR Doc. No. 5752, available at

https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/9716323673/731609901%2E04%20DCS%5FFINAL%20Parcel%20G%20ESD%20to%20Final%20ROD%5F04182017%2Epdf.

39. The Navy and EPA jointly selected the final remedial actions for parcel F at Hunters Point under CERCLA and documented that decision in the ROD issued in September 2024. *See* Final ROD for Parcel F (September 26, 2024) excerpts, Ex. 17 at 2-15, available at

https://media.defense.gov/2024/Oct/10/2003563170/-1/-1/0/HPNS_SEPTEMBER_2024_FINAL_RECORD_OF_DECISION_PARCEL_F_A.PDF.⁴

⁴ The hyperlink to the parcel F ROD is to media.defense.gov. This document is not available on EnviroStor. The Final ROD for Parcel F also has not been added to the Hunters Point AR or been assigned an AR document number yet.

40. In the ROD for parcel F at Hunters Point, the Navy and EPA found the remedial actions selected under CERCLA are protective of human health and the environment. *See* Final ROD for Parcel F excerpts, Ex. 17 at 26-27.

41. The Navy noticed for public comment, provided a public comment period, held a public meeting, and included responses to significant comments in the issued ROD for the CERCLA proposed plan for parcel F at Hunters Point for the remedial actions selected under CERCLA. *See* Final ROD for Parcel F excerpts, Ex. 17 at 28-48.⁵

42. The Navy maintains the CERCLA administrative record for Hunters Point online and at the San Francisco Public Library located at 100 Larkin Street, San Francisco, California, 94012. *See* <https://www.bracpmo.navy.mil/BRAC-Bases/California/Former-Naval-Shipyard-Hunters-Point/Documents/#parcels>.

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Respectfully submitted,

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